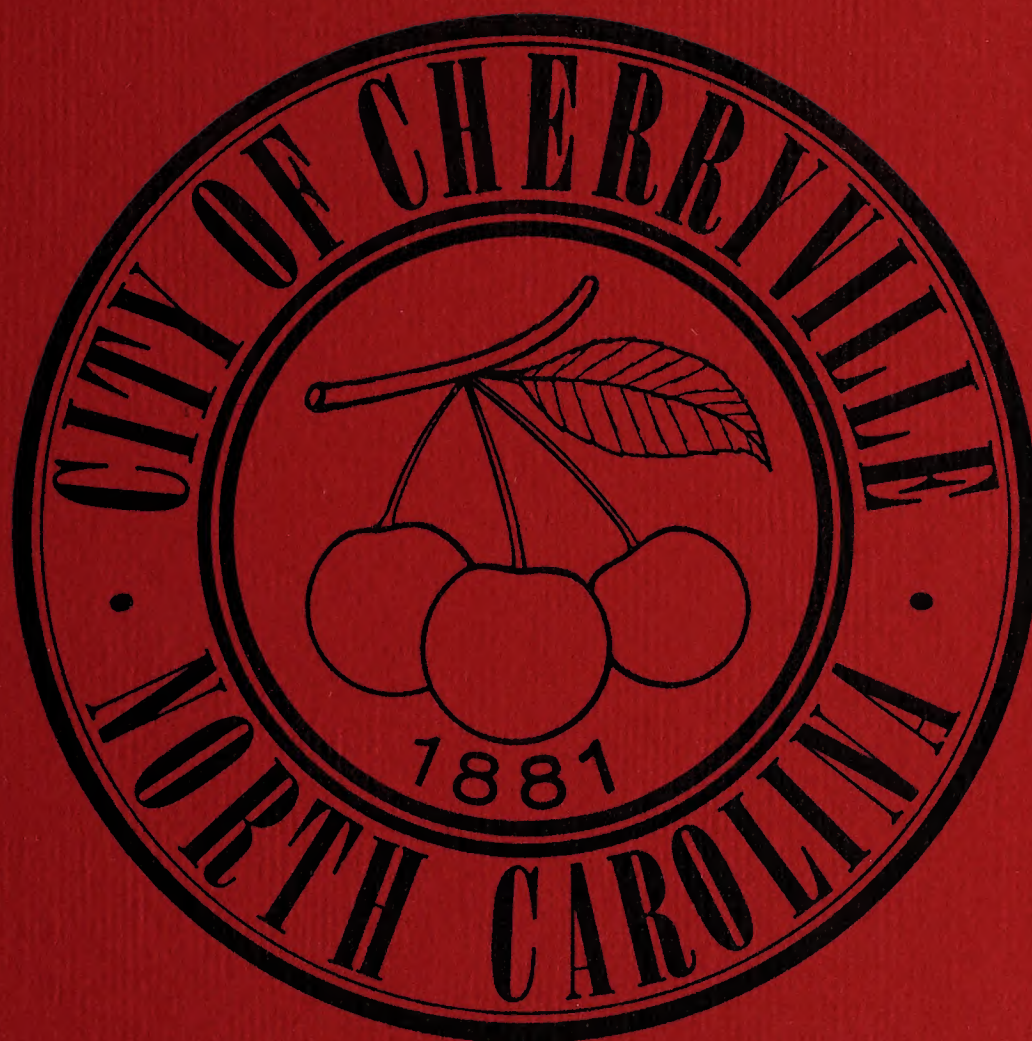


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CHERRYVILLE, NORTH CAROLINA

ANNEXATION FEASIBILITY STUDY

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City of Cherryville

John Swindall, City Manager
W. O. Upchurch, Mayor

City Council

J. Ralph Beam, Sr.
Robert Ballard
John McGinnis
W. M. Edwards

Planning and Zoning Commission

Frank Hoyle, Chairman
Charles V. Wiseman, Jr., Vice-Chairman
Roland Ferguson
J. W. Stiles
Paul Mitchem
R. J. Allran

TECHNICAL ASSISTANCE
FROM:

N. C. DEPT. OF NATURAL AND ECONOMIC RESOURCES
Howard N. Lee, Secretary

DIVISION OF COMMUNITY ASSISTANCE
Billy Ray Hall, Interim Director

LOCAL PLANNING AND MANAGEMENT SERVICES SECTION
Francis J. Johnson, Acting Chief

SOUTH PIEDMONT FIELD OFFICE
MOORESVILLE, N. C.

Mathey A. Davis, Chief Planner
Craig Brasfield, Planner-in-Charge
Bobbie Barkley, Stenographer

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CHAPTER I

INTRODUCTION

Annexation is one of the principal tools that cities can use to encourage economic growth and development. Simply defined, annexation is the process whereby municipalities extend their corporate limits to include additional land so that necessary urban services are provided and so that plans and policies adopted by the community are implemented. Through annexation, a city can be expected to gain increased opportunity for development and increased prestige. However, annexation also places additional responsibilities on the city to provide municipal services to an expanded area.

This study outlines the various methods of annexation available to the City of Cherryville and the applicable procedures required for each method. Three study areas are presented for consideration. Each study area is described in terms of its current land use. An analysis of each study area is presented in terms of likely costs and revenues associated with annexation and each area's compliance with the North Carolina General Statutes standards for annexation. Finally, recommendations are presented for the implementation of this report's findings.

CHAPTER I INTRODUCTION

Education is one of the principal tools that cities can use to improve economic growth and development. Highly skilled, educated labor forces are essential for cities to attract investment and to provide necessary urban services and housing and to meet other needs. Education is also essential for the community and the city. It can be expected to gain increased importance for development and progress. However, education also plays additional responsibilities in the city to provide multiple services to an expanded area.

This study outlines the various methods of assessment available to the City of Garyville and the applicable procedures to be used for each method. These study areas are presented for consideration. Each study area is described in terms of its current land use. An analysis of each study area is presented in terms of likely costs and revenues associated with acquisition and each area's compliance with the North Carolina General Statutes regarding education. Finally, recommendations are presented for the implementation of this report's findings.

CHAPTER II

METHODOLOGY

1. Delineation of Study Areas

These areas appeared initially to meet the statutory requirements for land uses, size of parcels, population, etc. Boundary lines for these areas were drawn in accordance with the guidelines set out in the General Statutes.

2. Acreage Estimates

The acreage estimates for each area were computed by using a compensating planimeter. All computations were double checked and compared with available tax maps.

3. Land Uses

A comprehensive land use survey was conducted for each study area in January, 1977.

4. Population Estimates

The population in each study area was estimated by multiplying the number of dwelling units by the population per household, (3.08 per household in 1970).

5. Cost Estimates

Cost estimates for city services were computed based on the best estimates provided by municipal officials.

6. Revenue Estimates

Revenue Estimates were estimated based on previous records of tax payment and property evaluation.

1. Delimitation of Study Area

These areas appeared initially to meet the statutory requirements for land use, size of parcels, population, etc. However, later the areas were shown in accordance with the guidelines set out in the survey plan.

2. Average Estimates

The average estimates for each area were computed by using a representative sample. All computations were double-checked and compared with available tax maps.

3. Land Use

A comprehensive land use survey was conducted for each area in January, 1977.

4. Population Estimates

The population in each study area was estimated by multiplying the number of dwelling units by the population per household, 3.08 per household in 1970.

5. Cost Estimates

Cost estimates for city services were computed based on the best estimates provided by municipal officials.

6. Revenue Estimates

Revenue estimates were estimated based on previous records of tax payments and property valuation.

CHAPTER III

METHODS OF ANNEXATION

The statutes under which North Carolina municipalities may annex new territory are based on the principal that land developed for urban purposes should be within an incorporated municipality. Under the provisions of the General Statutes, the City of Cherryville has the following four methods available to it for annexation:

(1) Action by the General Assembly. The General Assembly may at any time enlarge the boundaries of a municipality by special act. This method is available to all municipalities. When this method is employed, a resolution is passed by the local governing body requesting its representative(s) in the General Assembly to introduce the annexation act. If approved by the General Assembly, the Act may impose certain conditions on the town before the act is made effective.

(2) The 100 Percent Petition Procedure. "The governing board of any municipality may annex by ordinance any area contiguous to its boundaries upon presentation to the governing board of a petition signed by the owners of all the real property located within such area." (G.S. 160A-31). The procedure involves a public hearing and a finding that the petition and the area to be annexed meet the statutory standards. This procedure is particularly suited to annexations of small areas, new subdivisions, and tracts with a limited number of property owners.

(3) Annexation Subject to Development Standards and Service Requirements. Upon the recommendation of the Municipal Government Study Commission, the 1959 General Assembly enacted a new method of annexation which applies to most municipalities in the State, including those in Gaston County. The procedure is intended to provide municipalities with a means of annexing large tracts of land based on compliance with standards for urbanization (measured by existing land use) and with standards for required municipal services. The "Declaration of Policy" outlined for this method of annexation in G.S. 160A-45 provides a clear statement of the legitimate reasons for annexation - and the

METHODS OF AMENDMENT

The statutes under which West Virginia was organized are based on the principle that laws enacted for the purpose of amending the constitution should be within the limits of the legislative power. Under the provisions of the West Virginia Constitution, the City of Charleston and the following four counties are available to be for amendment:

(1) Action by the General Assembly. The General Assembly may at any time change the boundaries of a municipality by statute. This action is available to all municipalities. When this method is employed, a resolution is passed by the local governing body requesting its consideration in the General Assembly to introduce the proposed act. It is approved by the General Assembly, the act may impose certain conditions on the local body before the act is made effective.

(2) The 100 Percent Petition Procedure. The governing board of any municipality may cause by ordinance any area contiguous to the municipality upon presentation to the governing board of a petition signed by the owners of all the real property located within such area. (C.S. 100-21). The procedure involves a public hearing and a finding that the petition and the area to be annexed meet the statutory standards. This procedure is particularly suited to annexations of small areas, new subdivisions, and areas with a limited number of property owners.

(3) Amendment Subject to Legislative Standards and Review. The provisions of the constitution of the West Virginia State Government, the 1977 General Assembly enacted a new method of amendment which applies to municipalities in the State, including those in Boone County. The provisions are intended to provide municipalities with a means of annexing lands which are land based on compliance with standards for urbanization (including existing land use) and with standards for regional economic development. The "Declaration of Policy" outlined the basic method of annexation in 1977. It provides a clear statement of the legislative intent for annexation - and the

accompanying municipal responsibilities to annexed areas. Under this method, the municipality is required to make plans for the extension of services to the area proposed to be annexed, prior to a public hearing.

(4) Satellite Annexation. This method, passed in the 1973 session of the General Assembly, allows municipalities to annex areas which are not contiguous with a municipality's corporate limits. All North Carolina cities may annex a satellite area by ordinance following the receipt of a petition for annexation from all the owners of real property in the satellite area (except for the owners of non-taxed property and owners of railroads and public utilities), notice, and a public hearing. Some portion of a satellite boundary must be within three miles of the primary corporate boundary of the annexing city and no portion may be closer to the primary boundary of another city than it is to the primary boundary of the annexing city.

CHAPTER IV

DESCRIPTION OF STUDY AREAS

Area A is located immediately adjacent to the city limits southeast of Cherryville and is characteristic of all three areas proposed for annexation. The area contains approximately 18.2 acres, is zoned R-6, and is used totally for residential purposes. Individual lots are small with no large undeveloped tracts included for annexation. There will be some vacant land on the east side of South Pink Street included. This portion is now used for agriculture.

There are 24 dwelling units located in Area A with an estimated population of 74 people based on a 1970 average household size of 3.08 in Cherryville. These residents are served by South Chavis Drive, Clyde Street, South Pink Street and NC Rt. 274. There are some existing 8 inch and 10 inch water lines located in the area.

Area B is located on the western side of Cherryville immediately adjacent to the city limits. This area is located on both sides of NC Rt. 150 and includes parts of Brown Street and Grove Road. The area contains approximately 34.8 acres, all of which is zoned R-20 and used for residential purposes. Individual lots and parcels are larger, ranging from approximately one fourth of an acre to four acres in size.

There are 24 dwelling units with approximately 74 people in Area B. This population is based on the 1970 census figure of 3.08 persons per household. Ten and twelve inch water lines now serve the area. There is a tract of undeveloped land in this section that lies between the Seaboard Airline railroad and NC Rt. 150.

Area C is on the northwest boundary of the city and is the largest of the three areas proposed for annexation. The area includes 28.5 acres, 48 dwelling units and 148 persons. The land is used entirely for residential purposes with lot sizes ranging from 4,500 square feet to 31,500 square feet. All of the land included in Area C is zoned R-9 and is served by eight inch water lines. The area includes all of North Drive, East Drive and Hillsdale Drive.

CONFORMANCE WITH N. C. GENERAL STATUTES

North Carolina has explicit legislation regarding all facets of annexation. Section 160A-48 describes the character of the area to be annexed. This section sets the minimum requirements for an area to be considered as "developed for urban purposes." There are various combinations of the characteristics listed that cities may use in order to meet requirements. The areas proposed for annexation in Cherryville must meet the following requirements.

160A-48. Character of area to be annexed.--(a) A municipal governing board may extend the municipal corporate limits to include any area

- (1) Which meets the general standards of subsection (b), and
- (2) Every part of which meets the requirements of either subsection (c) or subsection (d).

(b) The total area to be annexed must meet the following standards:

- (1) It must be adjacent or contiguous to the municipality's boundaries at the time the annexation proceeding is begun.
- (2) At least one eighth of the aggregate external boundaries of the area must coincide with the municipal boundary.
- (3) No part of the area shall be included within the boundary of another incorporated municipality.

(c) Part or all of the area to be annexed must be developed for urban purposes. An area developed for urban purposes is defined as any area which meets any one of the following standards:

- (1) Has a total resident population equal to at least two persons for each acre of land included within its boundaries; or
- (2) Has a total resident population equal to at least one person for each acre of land included within its boundaries, and is subdivided into lots and tracts such that at least sixty percent (60%) of the total acreage consists of lots and tracts five acres or less in size and such that at least sixty percent (60%) of the total number of lots and tracts are one acre or less in size; or
- (3) Is so developed that at least sixty percent (60%) of the total number of lots and tracts in the area at the time of annexation are used for residential, commercial, industrial, institutional or governmental purposes, and is subdivided into lots and tracts such that at least sixty percent (60%) of the total acreage, not counting the

acreage used at the time of annexation for commercial, industrial, governmental or institutional purposes, consists of lots and tracts five acres or less in size.

All three areas meet the above requirements as stated. Specifically, subsection b (2) requires at least one-eighth (12.5%) of the aggregate boundary must coincide with the existing municipal boundary. Area A has 45% of its boundary contiguous to the city's existing boundary, Area B has 77% of its boundary contiguous and Area C has 48% of its boundary contiguous.

All areas considered for annexation must meet one of the three requirements of subsection c. All of the three areas surrounding Cherryville meet the c (1) requirement - a population of at least 2 persons per acre. Area A has a population of 4.2 persons per acre, Area B has 2.4 persons per acre and Area C has 5.3 persons per acre.

REVENUE - EXPENSE ANALYSIS
FIRST YEAR

REVENUE

Property Tax	\$ 30,096.20
Water Charges	3,456.00
Auto Licenses	148.00
Franchise Tax	1,480.00
Intangibles Tax	444.00
Powell Bill	2,180.09
Total Annual Revenue	\$ 37,804.29

EXPENSES - Annual - Maintenance

Water-Sewer	\$ 864.00
Street Lighting	90.00
Total Annual Expenses	\$ 954.00

EXPENSES - Capital - Non-Recurring

	AREA A	AREA B	AREA C
Sewer	\$ 10,247.10	Sewer	\$ 13,065.00
Lift Station	25,000.00	Water	8,750.00
Water	25,244.00	Paving	8,841.00
Paving	10,000.00	Engineering/Misc.	6,130.00
Engineering/Misc.		Materials	
Materials	7,252.00		
Subtotal	67,743.10	Subtotal	36,786.00
5% Inflation	3,387.15	5% Inflation	1,839.30
Subtotal	71,130.25	Subtotal	38,625.30
Labor (Twice		Labor (Twice	
Materials Cost		Materials Cost	
TOTAL COST	\$142,260.50	TOTAL COST	\$ 77,250.60

AREA A

AREA B

AREA C

TOTAL

Sanitation	\$ 3,840.00 (96 new containers/\$40 each)
Street Lighting	180.00 (6 street lights/\$30 each)

TOTAL CAPITAL
EXPENSES

\$338,749.70

REVENUE - EXPENSE ANALYSIS

TWENTY YEARS

REVENUE

Property Tax	\$601,924.00
Water Charges	69,120.00
Auto Licenses	2,960.00
Franchise Tax	29,600.00
Intangibles Tax	8,880.00
Powell Bill	<u>43,600.00</u>
TOTAL	\$756,084.00

EXPENSES

Water/Sewer	\$ 17,280.00
Street Lighting	<u>1,800.00</u>
TOTAL	\$ 19,080.00

REVENUE - EXPENSE ANALYSIS

TWENTY YEARS

REVENUE

Property Tax
 1001,814.30
 Motor Charges
 80,120.00
 Sales License
 2,800.00
 Franchise Tax
 10,000.00
 International Tax
 6,000.00
 Sewer Bill
 17,000.00
 TOTAL
 \$128,034.30

Property Tax
 Motor Charges
 Sales License
 Franchise Tax
 International Tax
 Sewer Bill
 TOTAL

EXPENSE

Water/Power
 \$ 11,780.00
 Street Lighting
 1,800.00
 TOTAL
 \$ 13,580.00

Water/Power
 Street Lighting
 TOTAL

CHAPTER V

REVENUE - EXPENSE ANALYSIS

The preceding table shows the anticipated revenues and expenses associated with annexation. These costs were computed and analyzed both for the first year following actual annexation and for the twentieth year following such annexation. This method shows expected costs at long and short range levels.

When a municipality considers the annexation of an area near its existing limits, the primary concern for the community as well as those citizens being annexed is the urban services that will be provided for the area. These services will benefit those served in various ways while the municipality is benefitted by an expanded tax base. The cost of these services is so great that the financial aspect of annexation is second only to actual conformance with the general statutes as to the character of the area to be annexed.

The fact is easily recognized from table -- that the first year following annexation is the most expensive in terms of service delivery. The bulk of this cost is the provision of water and sewer service to each of the three areas. The following methods were used in determining each element of the revenues and expenses:

Revenue

Property Tax - The property tax expected was researched in the Gaston County Tax Office. These figures show an amount that annexed residents can expect to pay based on the valuation of their property and the City of Cherryville's tax rate.

Water Charges - Cherryville municipal officials determined that the average monthly bill for water service is \$3.00. This was applied to the number of homes to be annexed.

Auto Licenses - Auto license fees are charged at a \$1.00 per year rate. There is an estimated one automobile for every two persons in the annexation areas.

Franchise Tax - This is a state-shared tax estimated at a rate of \$5.00 per capita per year. The total amount of franchise tax realized by the community should increase annually.

Intangibles Tax - This is a state-shared tax estimated at \$1.50 per capita per year. The amount of intangibles tax realized by the community should increase annually.

Powell Bill - This is a third state-shared tax that communities can use only for street improvements. This fund should increase annually also.

Expenses - Annual

Annual expenses in Cherryville's case are very small. This is due to the size of the area and the number of people to be annexed.

Water-Sewer - This figure is based on an estimate of \$9.00 per year per dwelling unit for maintenance.

Street Lighting - Six street lights will be needed at a maintenance cost of \$15.00 per light per year.

Capital Expenses

Capital expenses are non-recurring, usually very costly items. These items occur, with respect to annexation, in the first year. In Cherryville's case, this expense is almost entirely that of water and sewer extension. Paving, garbage containers and street lights make up the balance.

Water-Sewer - Costs for providing water and sewer service to each of the areas - South Pink Street, Brown Street, and North Drive were provided by the Cherryville Public Works Department. Each area was different due to the size and existing services.

Sanitation - This cost will result from the purchase of 96 new garbage containers at \$40.00 each.

CHAPTER VI

CONCLUSION

Municipal annexation on any scale larger than the individual parcel petition is rapidly becoming prohibitive in terms of costs. This is due to the spiraling cost of materials for water-sewer services as well as labor costs for installation. These costs make it mandatory for a community to approach annexation on increasingly smaller scales. This is especially obvious in the case of annexing residential areas. This situation exists in all three of the areas proposed for annexation in Cherryville. All three are almost completely residential areas. The cost of providing services to these areas is very high compared to the immediate increase in tax base.

However, when the initial capital costs are retired, another financial outlook is presented. Although the cost of utility service to these areas seems high, it is only \$338,749.70. When this amount is compared to the \$756,084.00 to be returned in twenty years through revenues, the picture brightens. The revenue figures shown do not show the increases in Powell Bill Funds, Intangibles Tax and Franchise Tax that are almost assured annually. Neither is there shown the increase in property tax revenue that will result from the two revaluations that are required by law every eight years.

From the figures shown, annexation of any combination of these areas is financially feasible at present. As with any cost figure, the rate of inflation will cause these figures to increase steadily. This rise in cost should influence the governing body of Cherryville to begin serious consideration of annexing these areas either singly or in some other combination as soon as possible. These areas are certainly "developed for urban purposes" and should be included within the city limits of Cherryville.

APPENDIX A

N. C. GENERAL STATUTES

CHAPTER 160-A-45-56

EXHIBIT A

U. S. FEDERAL STATUTES

CHAPTER 150-A-12-25

- (1) That sound urban development is essential to the continued economic development of North Carolina;
- (2) That municipalities are created to provide the governmental services essential for sound urban development and for the protection of health, safety and welfare in areas being intensively used for residential, commercial, industrial, institutional and governmental purposes or in areas undergoing such development;
- (3) That municipal boundaries should be extended in accordance with legislative standards applicable throughout the State, to include such areas and to provide the high quality of governmental services needed therein for the public health, safety and welfare;
- (4) That new urban development in and around municipalities having a population of 5,000 or more persons is more scattered than in and around smaller municipalities, and that such larger municipalities have greater difficulty in expanding municipal utility systems and other service facilities to serve such scattered development, so that the legislative standards governing annexation by larger municipalities must take these facts into account if the objectives set forth in this section are to be attained;
- (5) That areas annexed to municipalities in accordance with such uniform legislative standards should receive the services provided by the annexing municipality as soon as possible following annexation. (1959, c. 1009, s. 1; 1973, c. 426, s. 74.)

§ 160A-46. Authority to annex. — The governing board of any municipality having a population of 5,000 or more persons according to the last federal decennial census may extend the corporate limits of such municipality under the procedure set forth in this Part. (1959, c. 1009, s. 2; 1973, c. 426, s. 74.)

§ 160A-47. Prerequisites to annexation; ability to serve; report and plans. — A municipality exercising authority under this Part shall make plans for the extension of services to the area proposed to be annexed and shall, prior to the public hearing provided for in G.S. 160A-49, prepare a report setting forth such plans to provide services to such area. The report shall include:

- (1) A map or maps of the municipality and adjacent territory to show the following information:
 - a. The present and proposed boundaries of the municipality.
 - b. The present major trunk water mains and sewer interceptors and outfalls, and the proposed extensions of such mains and outfalls as required in subdivision (3) of this section.
 - c. The general land use pattern in the area to be annexed.
- (2) A statement showing that the area to be annexed meets the requirements of G.S. 160A-48.
- (3) A statement setting forth the plans of the municipality for extending to the area to be annexed each major municipal service performed within the municipality at the time of annexation. Specifically, such plans shall:
 - a. Provide for extending police protection, fire protection, garbage collection and street maintenance services to the area to be annexed on the date of annexation on substantially the same basis and in the same manner as such services are provided within the rest of the municipality prior to annexation. If a water distribution system is not available in the area to be annexed, the plans must call for reasonably effective fire protection services until such time as waterlines are made available in such area under existing municipal policies for the extension of waterlines.
 - b. Provide for extension of major trunk water mains and sewer outfall lines into the area to be annexed so that when such lines are constructed, property owners in the area to be annexed will be able to secure public water and sewer service, according to the policies in effect in such municipality for extending water and sewer lines to individual lots or subdivisions.
 - c. If extension of major trunk water mains and sewer outfall lines into the area to be annexed is necessary, set forth a proposed

timetable for construction of such mains and outfalls as soon as possible following the effective date of annexation. In any event, the plans shall call for contracts to be let and construction to begin within 12 months following the effective date of annexation.

- d. Set forth the method under which the municipality plans to finance extension of services into the area to be annexed. (1959, c. 1009, s. 3; 1973, c. 426, s. 74.)

§ 160A-48. Character of area to be annexed. — (a) A municipal governing board may extend the municipal corporate limits to include any area

- (1) Which meets the general standards of subsection (b), and
- (2) Every part of which meets the requirements of either subsection (c) or subsection (d).

(b) The total area to be annexed must meet the following standards:

- (1) It must be adjacent or contiguous to the municipality's boundaries at the time the annexation proceeding is begun.
- (2) At least one eighth of the aggregate external boundaries of the area must coincide with the municipal boundary.
- (3) No part of the area shall be included within the boundary of another incorporated municipality.

(c) Part or all of the area to be annexed must be developed for urban purposes. An area developed for urban purposes is defined as any area which meets any one of the following standards:

- (1) Has a total resident population equal to at least two persons for each acre of land included within its boundaries; or
- (2) Has a total resident population equal to at least one person for each acre of land included within its boundaries, and is subdivided into lots and tracts such that at least sixty percent (60%) of the total acreage consists of lots and tracts five acres or less in size and such that at least sixty percent (60%) of the total number of lots and tracts are one acre or less in size; or
- (3) Is so developed that at least sixty percent (60%) of the total number of lots and tracts in the area at the time of annexation are used for residential, commercial, industrial, institutional or governmental purposes, and is subdivided into lots and tracts such that at least sixty percent (60%) of the total acreage, not counting the acreage used at the time of annexation for commercial, industrial, governmental or institutional purposes, consists of lots and tracts five acres or less in size.

(d) In addition to areas developed for urban purposes, a governing board may include in the area to be annexed any area which does not meet the requirements of subsection (c) if such area either:

- (1) Lies between the municipal boundary and an area developed for urban purposes so that the area developed for urban purposes is either not adjacent to the municipal boundary or cannot be served by the municipality without extending services and/or water and/or sewer lines through such sparsely developed area; or
- (2) Is adjacent, on at least sixty percent (60%) of its external boundary, to any combination of the municipal boundary and the boundary of an area or areas developed for urban purposes as defined in subsection (c).

The purpose of this subsection is to permit municipal governing boards to extend corporate limits to include all nearby areas developed for urban purposes and where necessary to include areas which at the time of annexation are not yet developed for urban purposes but which constitute necessary land connections between the municipality and areas developed for urban purposes or between two or more areas developed for urban purposes.

(e) In fixing new municipal boundaries, a municipal governing board shall, wherever practical, use natural topographic features such as ridge lines and streams and creeks as boundaries, and if a street is used as a boundary, include within the municipality land on both sides of the street and such outside boundary may not extend more than 200 feet beyond the right-of-way of the street. (1959, c. 1009, s. 4; 1973, c. 426, s. 74.)

§ 160A-49. Procedure for annexation. — (a) Notice of Intent. — Any municipal governing board desiring to annex territory under the provisions of this Part shall first pass a resolution stating the intent of the municipality to consider annexation. Such resolution shall describe the boundaries of the area under consideration and fix a date for a public hearing on the question of annexation, the date for such public hearing to be not less than 30 days and not more than 60 days following passage of the resolution.

(b) Notice of Public Hearing. — The notice of public hearing shall

- (1) Fix the date, hour and place of the public hearing.
- (2) Describe clearly the boundaries of the area under consideration.
- (3) State that the report required in G.S. 160A-47 will be available at the office of the municipal clerk at least 14 days prior to the date of the public hearing.

Such notice shall be given by publication in a newspaper having general circulation in the municipality once a week for at least four successive weeks prior to the date of the hearing. The period from the date of the first publication to the date of the last publication, both dates inclusive, shall be not less than 22 days including Sundays, and the date of the last publication shall be not more than seven days preceding the date of public hearing. If there be no such newspaper, the municipality shall post the notice in at least five public places within the municipality and at least five public places in the area to be annexed for 30 days prior to the date of public hearing.

(c) Action prior to Hearing. — At least 14 days before the date of the public hearing, the governing board shall approve the report provided for in G.S. 160A-47, and shall make it available to the public at the office of the municipal clerk. In addition, the municipality may prepare a summary of the full report for public distribution.

(d) Public Hearing. — At the public hearing a representative of the municipality shall first make an explanation of the report required in G.S. 160A-47. Following such explanation, all persons resident or owning property in the territory described in the notice of public hearing, and all residents of the municipality, shall be given an opportunity to be heard.

(e) Passage of the Annexation Ordinance. — The municipal governing board shall take into consideration facts presented at the public hearing and shall have authority to amend the report required by G.S. 160A-47 to make changes in the plans for serving the area proposed to be annexed so long as such changes meet the requirements of G.S. 160A-47. At any regular or special meeting held no sooner than the seventh day following the public hearing and no later than 60 days following such public hearing, the governing board shall have authority to adopt an ordinance extending the corporate limits of the municipality to include all, or such part, of the area described in the notice of public hearing which meets the requirements of G.S. 160A-48 and which the governing board has concluded should be annexed. The ordinance shall:

- (1) Contain specific findings showing that the area to be annexed meets the requirements of G.S. 160A-48. The external boundaries of the area to be annexed shall be described by metes and bounds. In showing the application of G.S. 160A-48(c) and (d) to the area, the governing board may refer to boundaries set forth on a map of the area and incorporate same by reference as a part of the ordinance.
- (2) A statement of the intent of the municipality to provide services to the area being annexed as set forth in the report required by G.S. 160A-47.
- (3) A specific finding that on the effective date of annexation the municipality will have funds appropriated in sufficient amount to finance construction of any major trunk water mains and sewer outfalls found necessary in the report required by G.S. 160A-47 to extend the basic water and/or sewer system of the municipality into the area to be annexed, or that on the effective date of annexation the municipality will have authority to issue bonds in an amount sufficient to finance such construction. If authority to issue such bonds must be secured from the electorate of the municipality prior to the effective date of annexation, then the effective date of annexation shall be no earlier than the day following the statement of the successful result of the bond election.
- (4) Fix the effective date of annexation. The effective date of annexation

may be fixed for any date within 12 months from the date of passage of the ordinance.

(f) Effect of Annexation Ordinance. — From and after the effective date of the annexation ordinance, the territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in such municipality and shall be entitled to the same privileges and benefits as other parts of such municipality. If territory is annexed its liability for municipal taxes for the fiscal year in which it is annexed shall be determined by applying the following ratio against the total taxes that would be due on the property if it had been annexed prior to the beginning of the fiscal year: The numerator shall be the number 365 minus the total number of days after the preceding July 1 and immediately prior to the effective date of the annexation, and the denominator shall be the number 365. However, the due date of such municipal taxes shall be the effective date of annexation of said territory and the taxes may be paid at par or face amount at any time before the one hundred and twentieth day after the due date. On or after the one hundred and twentieth day and before the one hundred and fiftieth day from the due date there shall be added to the taxes interest at the rate of two percent (2%). On or after the one hundred and fiftieth day from the due date, there shall be added to the taxes, in addition to the two percent (2%) provided above, interest at the rate of three fourths of one percent ($\frac{3}{4}$ of 1%) per 30 days or fraction thereof until the taxes plus interest have been paid. Provided that annexed property which is a part of a sanitary district, which has installed water and sewer lines, paid for by the residents of said district, shall not be subject to that part of the municipal taxes levied for debt service for the first five years after the effective date of annexation. If this proviso should be declared by a court of competent jurisdiction to be in violation of any provision of the federal or State Constitution, the same shall not affect the remaining provisions of this Part. If the effective date of annexation falls between January 1 and June 30, the municipality shall, for purposes of levying taxes for the fiscal year beginning July 1 following the date of annexation, obtain from the county a record of property in the area being annexed which was listed for taxation as of said January 1. If the effective date of annexation falls between June 1 and June 30, and the effective date of the privilege license tax ordinance of the annexing municipality is June 1, then businesses in the area to be annexed shall be liable for taxes imposed in such ordinances from and after the effective date of annexation.

(g) Simultaneous Annexation Proceedings. — If a municipality is considering the annexation of two or more areas which are all adjacent to the municipal boundary but are not adjacent to one another, it may undertake simultaneous proceedings under authority of this Part for the annexation of such areas.

(h) Remedies for Failure to Provide Services. — If, not earlier than one year from the effective date of annexation, and not later than 15 months from the effective date of annexation, any person owning property in the annexed territory shall believe that the municipality has not followed through on its service plans adopted under the provisions of G.S. 160A-47(3) and 160A-49(e), such person may apply for a writ of mandamus under the provisions of Article 40, Chapter 1 of the General Statutes. Relief may be granted by the judge of superior court

- (1) If the municipality has not provided the services set forth in its plan submitted under the provisions of G.S. 160A-47(3)a on substantially the same basis and in the same manner as such services were provided within the rest of the municipality prior to the effective date of annexation, and
- (2) If at the time the writ is sought such services set forth in the plan submitted under the provisions of G.S. 160A-47(3)a are still being provided on substantially the same basis and in the same manner as on the date of annexation of the municipality.

Relief may also be granted by the judge of superior court

- (1) If the plans submitted under the provisions of G.S. 160A-47(3)c require the construction of major trunk water mains and sewer outfall lines and
- (2) If contracts for such construction have not yet been let.

If a writ is issued, costs in the action, including a reasonable attorney's fee for such aggrieved person, shall be charged to the municipality. (1959, c. 1009, s. 5; 1973, c. 426, s. 74; 1975, c. 576, s. 4.)

§ 160A-50. Appeal. — (a) Within 30 days following the passage of an annexation ordinance under authority of this Part, any person owning property in the annexed territory who shall believe that he will suffer material injury by reason of the failure of the municipal governing board to comply with the procedure set forth in this Part or to meet the requirements set forth in G.S. 160A-48 as they apply to his property may file a petition in the superior court of the county in which the municipality is located seeking review of the action of the governing board.

(b) Such petition shall explicitly state what exceptions are taken to the action of the governing board and what relief the petitioner seeks. Within five days after the petition is filed with the court, the person seeking review shall serve copies of the petition by registered mail, return receipt requested, upon the municipality.

(c) Within 15 days after receipt of the copy of the petition for review, or within such additional time as the court may allow, the municipality shall transmit to the reviewing court

(1) A transcript of the portions of the municipal journal or minute book in which the procedure for annexation has been set forth and

(2) A copy of the report setting forth the plans for extending services to the annexed area as required in G.S. 160A-47.

(d) If two or more petitions for review are submitted to the court, the court may consolidate all such petitions for review at a single hearing, and the municipality shall be required to submit only one set of minutes and one report as required in subsection (c).

(e) At any time before or during the review proceeding, any petitioner or petitioners may apply to the reviewing court for an order staying the operation of the annexation ordinance pending the outcome of the review. The court may grant or deny the stay in its discretion upon such terms as it deems proper, and it may permit annexation of any part of the area described in the ordinance concerning which no question for review has been raised.

(f) The court shall fix the date for review of annexation proceedings under this Part, which review date shall preferably be within 30 days following the last day for receiving petitions to the end that review shall be expeditious and without unnecessary delays. The review shall be conducted by the court without a jury. The court may hear oral arguments and receive written briefs, and may take evidence intended to show either

(1) That the statutory procedure was not followed or

(2) That the provisions of G.S. 160A-47 were not met, or

(3) That the provisions of G.S. 160A-48 have not been met.

(g) The court may affirm the action of the governing board without change, or it may

(1) Remand the ordinance to the municipal governing board for further proceedings if procedural irregularities are found to have materially prejudiced the substantive rights of any of the petitioners.

(2) Remand the ordinance to the municipal governing board for amendment of the boundaries to conform to the provisions of G.S. 160A-48 if it finds that the provisions of G.S. 160A-48 have not been met; provided, that the court cannot remand the ordinance to the municipal governing board with directions to add area to the municipality which was not included in the notice of public hearing and not provided for in plans for service.

(3) Remand the report to the municipal governing board for amendment of the plans for providing services to the end that the provisions of G.S. 160A-47 are satisfied.

If any municipality shall fail to take action in accordance with the court's instructions upon remand within three months from receipt of such instructions, the annexation proceeding shall be deemed null and void.

(h) Any party to the review proceedings, including the municipality, may appeal to the Supreme Court from the final judgment of the superior court under rules of procedure applicable in other civil cases. The appealing party may apply to the superior court for a stay in its final determination, or a stay of the annexation ordinance, whichever shall be appropriate, pending the outcome of the appeal to the Supreme Court, provided, that the superior court

may, with the agreement of the municipality, permit annexation to be effective with respect to any part of the area concerning which no appeal is being made and which can be incorporated into the city without regard to any part of the area concerning which an appeal is being made.

(i) If part or all of the area annexed under the terms of an annexation ordinance is the subject of an appeal to the superior or Supreme Court on the effective date of the ordinance, then the ordinance shall be deemed amended to make the effective date with respect to such area the date of the final judgment of the superior or Supreme Court, whichever is appropriate, or the date the municipal governing board completes action to make the ordinance conform to the court's instructions in the event of remand. (1959, c. 1009, s. 6; 1973, c. 426, s. 74.)

§ 160A-51. Annexation recorded. — Whenever the limits of a municipality are enlarged in accordance with the provisions of this Part, it shall be the duty of the mayor of the municipality to cause an accurate map of such annexed territory, together with a copy of the ordinance duly certified, to be recorded in the office of the register of deeds of the county or counties in which such territory is situated and in the office of the Secretary of State. (1959, c. 1009, s. 7; 1973, c. 426, s. 74.)

§ 160A-52. Authorized expenditures. — Municipalities initiating annexations under the provisions of this Part are authorized to make expenditures for surveys required to describe the property under consideration or for any other purpose necessary to plan for the study and/or annexation of unincorporated territory adjacent to the municipality. In addition, following final passage of the annexation ordinance, the annexing municipality shall have authority to proceed with expenditures for construction of water and sewer lines and other capital facilities and for any other purpose calculated to bring services into the annexed area in a more effective and expeditious manner prior to the effective date of annexation. (1959, c. 1009, s. 8; 1973, c. 426, s. 74.)

§ 160A-53. Definitions. — The following terms where used in this Part shall have the following meanings, except where the context clearly indicates a different meaning:

- (1) "Contiguous area" shall mean any area which, at the time annexation procedures are initiated, either abuts directly on the municipal boundary or is separated from the municipal boundary by a street or street right-of-way, a creek or river, the right-of-way of a railroad or other public service corporation, lands owned by the city or some other political subdivision, or lands owned by the State of North Carolina.
- (2) "Used for residential purposes" shall mean any lot or tract five acres or less in size on which is constructed a habitable dwelling unit. (1959, c. 1009, s. 9; 1973, c. 426, s. 74.)

§ 160A-54. Population and land estimates. — In determining population and degree of land subdivision for purposes of meeting the requirements of G.S. 160A-48, the municipality shall use methods calculated to provide reasonably accurate results. In determining whether the standards set forth in G.S. 160A-48 have been met on appeal to the superior court under G.S. 160A-50, the reviewing court shall accept the estimates of the municipality:

- (1) As to population, if the estimate is based on the number of dwelling units in the area multiplied by the average family size in such area, or in the township or townships of which such area is a part, as determined by the last preceding federal decennial census; or if it is based on a new enumeration carried out under reasonable rules and regulations by the annexing municipality; provided, that the court shall not accept such estimates if the petitioners demonstrate that such estimates are in error in the amount of ten percent (10%) or more.
- (2) As to total area if the estimate is based on an actual survey, or on county tax maps or records, or on aerial photographs, or on some other reasonably reliable map used for official purposes by a governmental agency, unless the petitioners on appeal demonstrate that such estimates are in error in the amount of five percent (5%) or more.

- (3) As to degree of land subdivision, if the estimates are based on an actual survey, or on county tax maps or records, or on aerial photographs, or on some other reasonably reliable source, unless the petitioners on appeal show that such estimates are in error in the amount of five percent (5%) or more. (1959, c. 1009, s. 10; 1973, c. 426, s. 74.)

§ 160A-55. Effect of Part on other laws. — From and after July 1, 1959, this Part shall be in full force and effect with respect to all municipalities having a population of 5,000 or more persons according to the last preceding federal decennial census. The provisions of Part 1 of Article 36 of Chapter 160 [Part 1 of Article 4A of Chapter 160A] of the General Statutes of North Carolina shall remain in full force and effect with respect to such municipalities as an alternative procedure until June 30, 1962. From and after July 1, 1962, all the provisions of Part 1 of Article 36 of Chapter 160 of the General Statutes of North Carolina, with the exception of G.S. 160-452 [G.S. 160A-31] as it exists at the time of the passage of this Part or as it may be amended at this session of the General Assembly, shall be repealed. Insofar as the provisions of this Part are inconsistent with the provisions of any other law, the provisions of this Part shall be controlling. (1959, c. 1009, s. 11; 1961, c. 655, s. 2; 1967, c. 1226, s. 3; 1973, c. 426, s. 74.)

§ 160A-56. Counties excepted from Part; Part 1 continued for such counties. — The provisions of this Part shall not apply to the following counties: Columbus, Halifax, Pender and Perquimans. No territory located in Brunswick County may be annexed under the provisions of this Part.

Notwithstanding any other provisions of this Part, Part 1 of Article 36 of Chapter 160 [Part 1 of Article 4A of Chapter 160A] of the General Statutes of North Carolina and specifically G.S. 160A-31, as the same may be rewritten or amended, shall remain in full force and effect as to the counties herein named. (1959, c. 1009, s. 12; 1961, cc. 468, 787; 1963, c. 728; 1967, c. 156, s. 2; 1969, c. 438, s. 2; c. 1058, s. 1; c. 1232; 1973, c. 426, s. 74; 1975, c. 290, s. 2.)

Part 4. Annexation of Noncontiguous Areas.

§ 160A-58. Definitions. — The words and phrases defined in this section have the meanings indicated when used in this Part unless the context clearly requires another meaning:

- (1) "City" means any city, town, or village without regard to population, except cities not qualified to receive gasoline tax allocations under G.S. 136-41.2.
- (2) "Primary corporate limits" means the corporate limits of a city as defined in its charter, enlarged or diminished by subsequent annexations or exclusions of contiguous territory pursuant to Parts 1, 2, and 3 of this Article or local acts of the General Assembly.
- (3) "Satellite corporate limits" means the corporate limits of a noncontiguous area annexed pursuant to this Part or a local act authorizing or effecting noncontiguous annexations. (1973, c. 1173, s. 2.)

§ 160A-58.1. Petition for annexation; standards. — (a) Upon receipt of a valid petition signed by all of the owners of real property in the area described therein, a city may annex an area not contiguous to its primary corporate limits when the area meets the standards set out in subsection (b) of this section. The petition need not be signed by the owners of real property that is wholly exempt from property taxation under the Constitution and laws of North Carolina, nor by railroad companies, public utilities as defined in G.S. 62-3(23), or electric or telephone membership corporations.

(b) A noncontiguous area proposed for annexation must meet all of the following standards:

- (1) The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
- (2) No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.

APPENDIX B

MODEL RESOLUTIONS

A RESOLUTION STATING THE INTENT OF THE (CITY) (TOWN)
OF _____, TO CONSIDER ANNEXATION OF THE AREA
DESCRIBED HEREIN AND FIXING THE DATE OF PUBLIC HEARING
ON THE QUESTION OF ANNEXATION

BE IT RESOLVED by the (name of governing body) of the (City) (Town)
of _____:

Section 1. That it is the intent of the (name of governing body) of
the (City)(Town) of _____, to consider annexation of the following
described territory pursuant to Part 3, Article 4A of Chapter 160A of the
General Statutes of North Carolina:

(Insert Metes and Bounds Description)

Section 2. That a public hearing on the question of annexing the above
described territory will be held at (place of hearing) at _____ o'clock,
____.m., on the _____ day of _____, 19 ____, at which time
plans for extending services to said territory will be explained and all
residents of the (City)(Town) of _____ will be given an opportunity
to be heard.

Section 3. That a report of plans for extending services to the above
described territory be made available for public inspection at the office of
the (City)(Town) Clerk at least fourteen (14) days prior to the date of said
public hearing.

Section 4. That notice of said public hearing shall be given by
(publication) (posting) as required by law.

Adopted this _____ day of _____, 19 ____.

Signed _____
(Mayor)

Attest:

(Clerk)

NOTICE OF PUBLIC HEARING ON QUESTIONS OF ANNEXATION

The public will take notice that the (name of governing body) of the (City)(Town) of _____ will hold a public hearing at (place of hearing) at _____ o'clock, _____.m., on the _____ day of _____, 19____, on the question of annexation of the territory described below, pursuant to Part 3, Article 4A, Chapter 160A of the General Statutes of North Carolina, at which time the plans for extending municipal services to said territory will be explained and all persons resident or owning property in said territory and all residents of the (City)(Town) of _____ will be given an opportunity to be heard.

The report of plans for extending services to said territory will be available for public inspection at the office of the (City)(Town) Clerk at least fourteen (14) days prior to the date of said public hearing. (In addition, summaries of the full report will be available for public distribution.)¹

The area to be considered for annexation is described as follows:

(Insert Metes and Bounds Description)

Signed: _____
(City) (Town) Clerk

1

To be used if appropriate.

EXCERPT FOR RECORDING APPROVAL IN MINUTES

"After examination and discussion of the report of plans for extending services to the area to be considered for annexation under Resolution No. _____, adopted the _____ day of _____, 19____, Mr(s). _____ moved approval of the report, seconded by Mr(s). _____ and passed, _____ votes to _____."

(Continued on following page)

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE
(CITY) (TOWN) OF _____, UNDER THE AUTHORITY
GRANTED BY PART 3, ARTICLE 4A, CHAPTER 160A OF THE
GENERAL STATUTES OF NORTH CAROLINA

WHEREAS, all of the prerequisites to adoption of this ordinance prescribed in Part 3, Article 4A, Chapter 160A of the General Statutes of North Carolina, have been met; and

WHEREAS, the (name of governing body) has taken into full consideration the statements presented at the public hearing held on the _____ day of _____, 19 _____, on the question of this annexation; and

WHEREAS, the (name of governing body) has concluded and hereby declares that annexation of the area described herein is necessary to the orderly growth and development of the (City)(Town) of _____:

NOW, THEREFORE, BE IT ORDAINED by the (name of governing body) of the (City)(Town) of _____.

Section 1. That from and after the _____ day of _____, 19 _____, the effective date of this annexation, the following territory shall be annexed to and become a part of the (City)(Town) of _____, and the corporate limits of the (City)(Town) of _____ shall on said _____ day of _____, 19 _____, be extended to include said territory more particularly described by metes and bounds as follows:

(Insert Metes and Bounds Description)

Section 2. That the (name of governing body) does hereby specifically find and declare that the above described territory meets the requirements of G.S. 160A-48, in that:

SET FORTH IN DETAIL STATEMENTS SHOWING HOW AREA ACTUALLY MEETS THE STATUTORY STANDARDS. THIS SECTION MAY REITERATE THE CORRESPONDING STATEMENT IN THE REPORT OF PLANS FOR SERVICES.

Section 3. That it is the purpose and intent of the (City)(Town) of _____, to provide services to the area being annexed under this ordinance, as set forth in the report of plans for services approved by the (name of governing body) on the _____ day of _____, 19 _____, and filed in the office of the Clerk for public inspection.

ALTHOUGH THE FOREGOING MAY SATISFY THE STATUTORY REQUIREMENT, IT IS RECOMMENDED THAT THE PLANS FOR SERVICES BE SET FORTH IN THIS SECTION IN DETAIL, IN SUBSTANTIALLY THE SAME LANGUAGE AS IN THE REPORT, INsofar AS MAY BE APPROPRIATE.

(Continued on following page)

Section 4. That the (name of governing body) does hereby specifically find and declare that, on the effective date of annexation prescribed in Section 1 hereof, the (City)(Town) of _____ will have sufficient funds appropriated in the amount of \$ _____, to finance the estimated cost of construction of water and sewer facilities found necessary in the report of plans for services to extend the basic sewer and water system of the (City)(Town) of _____ into the area to be annexed under this ordinance.

NOTE: If bonds must be issued, the bond authorization is equivalent to an appropriation. However, if bonds are authorized, it is recommended that such be stated in this section.

Section 5. That from and after the effective date of this annexation, the territory annexed and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the (City)(Town) of _____, and shall be entitled to the same privileges and benefits as other parts of the (City)(Town).

Section 6. That the newly annexed territory described hereinabove shall be subject to (City)(Town) taxes according to G.S. 160A-49(f), as amended.

Section 7. That the Mayor of the (City)(Town) of _____ shall cause an accurate map of the annexed territory described in Section 1 hereof, together with a duly certified copy of this ordinance, to be recorded in the office of the register of deeds of _____ County, and in the office of the Secretary of State at Raleigh.

* Section 8. That notice of the adoption of this ordinance shall be published once in a newspaper having general circulation in the (City)(Town) of _____.

Adopted this _____ day of _____, 19 ____.

Signed _____
Mayor

Attest:

Clerk

* Optional.

NOTICE OF ADOPTION OF ANNEXATION ORDINANCE *

The public will take notice that the (name of governing body) of the (City)(Town) of _____ adopted an ordinance pursuant to Part 3, Article 4A, Chapter 160A of the General Statutes of North Carolina, annexing as of the _____ day of _____, 19 _____, the territory described below.

Said ordinance was adopted on the _____ day of _____, 19 _____, and within thirty (30) days from said date, any person owning property in said territory who shall believe that he will suffer material injury by reason of any failure of the (name of governing body) to comply with the procedure or requirements prescribed by Part 3, Article 4A, Chapter 160A of the General Statutes of North Carolina, may file a petition in the Superior Court of _____ County, seeking review of the action of the (name of governing body).

The territory annexed under said ordinance is more particularly described as follows:

(Insert Metes and Bounds Description)

Signed _____

(City)(Town) Clerk

* Optional.

APPENDIX C

ENVIRONMENTAL ASSESSMENT STATEMENT

APPENDIX C

ENVIRONMENTAL ASSESSMENT STATEMENT

1. Abstract

The Annexation Feasibility Study was undertaken for the purpose of measuring the costs, revenues and the applicability of the N. C. General Statutes to the areas proposed for annexation.

2. Environmental Impact

Actual annexation will provide municipal services to areas not previously served. The provision of more efficient waste disposal systems will prove beneficial to the area.

3. Adverse Environmental Effects

None.

4. Alternatives to Proposed Policies

Alternatives are to not begin annexation procedures.

5. Relationship Between the Short Term Effect on Man's Environment and Maintenance of Long Term Productivity

Environmental quality will be enhanced through the provision of municipal services.

6. Irreversible Commitments of Resources

None.

7. Other Environmental Controls in Effect

All existing Municipal, County, State and Federal environmental controls currently in effect will apply to the planning area.

8. Mitigation Measures to Minimize Impact

None needed.

9. Problems Raised by Others During the Review Process

None.

